

**Minutes  
City of Burlington Plan Commission  
Police Dept. Courtroom  
November 27, 2007 6:30 p.m.**

Mayor Lois called the Plan Commission meeting to order this Tuesday evening at 6:30 p.m. followed by roll call: Commissioners John Thate, Darrel Eisenhardt, Bob Henney, John Lynch Jr, Bob Schulte and Town of Burlington Representative Phil Peterson. Commissioner Tom Vos was absent. Also present were: Building Inspector / Zoning Administrator Patrick Scherrer, Attorney Tom Kircher, Bruce Kaniewski, Ruekert & Mielke, Alderman Bob Prailes and Alderman Peter Girolamo.

**APPROVAL OF MINUTES**

None.

**Citizen Comments** – None.

**PUBLIC HEARINGS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

- 1. Consideration to approve a Site Plan Application, a Certified Survey Map and Rezone Application from Gries Architectural Group, Inc. for property located at 980 Milwaukee Avenue to allow for retail stores, shops and restaurants, including Kohl's Department Store, subject to Kapur and Associate's November 21, 2007 memorandum and Bruce Kaniewski's (Ruekert-Mielke) November 27, 2007 memorandum to the Plan Commission.**

Mayor Lois opened this issue for discussion.

Mr. Curt Mauer, Commercial Horizons, gave a presentation to the Commission regarding the Kohls Department Store development. He informed the Commission that the 16 acre development would maintain two points of access, one from Wegge Road and the second one being off Milwaukee Avenue, to the south. He noted that in the future the developer would like the access from Milwaukee Avenue to be a controlled intersection. He explained that the first phase of the development would be to construct the Kohls store and complete all of the site improvements necessary to open the store on the north end of the development. He noted that they would be obtaining a reciprocal easement agreement, which would provide for cross access across the entire development for truck deliveries to the back of the building as well as cross parking across the entire site. Mr. Mauer reviewed that Phase One would be the Kohls department store with, the projection for Phase Two being a retail store next to Kohls and Phase Three being a multi-tenant facility.

Mr. Mauer informed the Commission that the Kohls building would be 68,900 square feet and that the developer is planning on this development having two shopping center signs. He explained that the signs would include the Kohls name, as well as that of the tenant retail store adjacent to the building and eventually the names of the multi-tenant facility. The signs are proposed to be located on the outlot and the other located somewhere in the controlled intersection.

Commissioner Lynch questioned what type of retail business is envisioned for Phase Three of this development. Mr. Mauer stated that the zoning classification and the PUD Overlay would govern what types of uses could go into this Phase. He stated that his vision would be a strip center phase including restaurants, small shops, etc. He noted that the Kohls store would be open and there would be tenants up front for Phases Two and Three prior to any building being built.

Mr. Mauer also explained the Site Plan to the Commission with a piece of land approximately 24,000 square foot adjacent to Kohls. He explained that an Option to Purchase Land Agreement is being worked on with the City to allow for the developer to purchase this piece of land from the City. This would allow for a potential tenant that is larger than 24,000 square feet. Attorney Kircher noted that this agreement is extended until April 2008 with a possible one-year extension after that.

Commissioner Henney questioned if there would be access and an easement to the Kmart parking lot. Mr. Mauer stated that both Kohls and Kmart would like to see this happen and they are currently in discussions regarding this issue. Commissioner Henney also questioned if the Wegge Road access would be controlled. Mayor Lois stated that it would not be, as it is too close to the existing controlled intersection.

Town of Burlington Representative Phil Peterson questioned if Wegge Road would be restricted from making left turns. Mayor Lois stated that left turns would not be restricted due to the lighted intersection being so close. Mr. Mauer noted that the access drive should elevate any traffic issues.

Commissioner Eisenhardt inquired as to who approves whether an intersection could be a controlled one. Mayor Lois stated that at this time the Department of Transportation (DOT) would be the final say on the controlled intersection and the goal with this development would be to have the controlled intersection installed when the store is completed. Mr. Mauer noted that if the DOT does not approve the controlled intersection by the opening of the store, the developer would wait until the City has the ability to approve the intersection and pay to install it at that time.

Commissioner Schulte questioned if the easement with the Kmart parking lot was fully Kmart's decision. Mr. Bruce Kaniewski, Ruekert & Mielke, explained that there is a provision for this in the City Zoning Code, which would allow for any new development to obtain an easement for the cross-access to an older existing development. This would allow the City to suggest that the connection be made if the older development would redevelop something on the property or if it could benefit both properties. Mr. Mauer stated that the Kohls development would have an easement in place for that connection to be made. Questions were raised regarding

the enforcement of the easement. Mayor Lois stated that the City would monitor and enforce all regulations with each incoming phase.

Mr. Bruce Kaniewski, Ruekert & Mielke, gave a brief overview of his revised memorandum to the Commission including revisions to parking, lighting, signage and the CSM. Mr. Mauer stated that the developer would not construct the second sign until Phase Two or Three of this development.

Commissioner Lynch questioned if there would be cross-access into the outlot. Mayor Lois stated that there would not be cross-access. Attorney Kircher wanted to comment on the fact that green space is allowed to be calculated according to the size of the development and not to the typical 25% (for large developments).

Commissioner Thate moved and Commissioner Schulte seconded to approve a Site Plan Application (Phase One Development), a Certified Survey Map and Rezone Application from Gries Architectural Group, Inc. for property located at 980 Milwaukee Avenue to allow for retail stores, shops and restaurants, including Kohl's Department Store, subject to Kapur and Associate's November 21, 2007 memorandum and Bruce Kaniewski's (Ruekert-Mielke) November 27, 2007 memorandum to the Plan Commission as follows:

- Submittal for City staff review and approval of final plans including, but not limited to: Landscaping, Site Lighting, Direction and Traffic Control Signage, Site Construction Plans (grading, utilities, storm water management and water quality), etc., all in accordance with City ordinances and generally accepted policies and practices.
- All City approvals are subject to approvals of the City Engineer, and all applicable Federal, State and Racine County agencies.
- The Common Council approval of the rezoning of the site from B-1 to B-1 PUD Overlay.
- The Common Council approval of the Certified Survey Map with all recommended conditions.
- The Common Council approval of the Text Amendment to amend Chapter 315-26 and 315-130.1 to increase the threshold for requiring a Conditional Use Permit and additional development agreement provisions related to the enclosed structures from 60,000 square feet to 80,000 square feet.
- Approval of the Site Plans for the Kohl's Department Store shall be in accordance with Phase 1 portion of the site as identified in Sheet A 0.1, with access routes identified through Phases 2 and 3, or Sheet A 0.2 if applicable.
- Pertaining to a detailed review of a site lighting plan, the following shall be submitted:
  - a. A catalog page, cut sheet, or photograph of the luminaire including the mounting method, a graphic depiction of the luminaire lamp

concealment, and graphic depiction of light cut-off angles must be submitted to City staff.

- b. A photographic data test of the proposed luminaire showing horizontal and vertical lighting distribution must be submitted to City staff.
  - c. The pole and luminaire height shall be submitted, not to exceed the maximum allowable luminaire mounting height of 28 feet.
- Freestanding sign structures have minimum setback of 10 feet from the Milwaukee Avenue property line, and the southern most freestanding be located at least 20 feet from the nearest point of the curb of the neighboring private drive.
- Consideration of a deviation to the size of the wall sign.
- Final engineering shall be submitted to City staff, for review and approval. This will include detailed grading plans, stormwater plans, erosion control plans, and utility plans along with all supporting computations and details, with emphasis on the following:
  - a. The City Engineer, as shown on the Overall Site Plan, shall approve the design and width of the southern access point with Milwaukee Avenue.
  - b. Final plans shall provide that the 100yr storm must be detained in the stormwater facilities and conform to all storm water management requirements.
  - c. In the wet detention basin, the permanent water level and the water fluctuation level must be identified.
  - d. All water mains and hydrant locations must meet the approval of the City Engineer.
- Consideration of deviations to:
  - a. Section 315-48(D)(2) requiring a minimum of eight (8) feet parking lot setback from a property line, to a minimum of 2.33 feet as shown on the Overall Site Plan, and zero setback between the future land divisions between Phases 1 and 2, and Phases 2 & 3.
  - b. Section 315-48(M) requiring parking lot width (aisle plus 90 degree double loaded parking) of 65 feet, to a minimum of 61 feet as shown on the Overall Site Plan.
  - c. Section 315-48(B) requiring a parking space minimum size of 180 square feet, to a minimum of 171 square feet.
  - d. Section 315-26(G)(2) requiring a minimum of 10 building side yard setback, to zero (0) feet between the buildings of Phases 1 and 2.

- Phase 1 approval includes the truck route and general customer access through Phases 2 and 3 as identified on the overall Site Plan.
- North is referenced to the “East” line of the SW ¼ but should be West line of the SW ¼.
- Material of monuments should be stated per ss 236.20(2)b.
- Storm water management facilities have been identified on the plans. Storm water computation should accompany future submittals, even if they are preliminary in nature. From the submittal provided we are unable to determine if stormwater requirements will or can be met. The 100yr storm must be detained in the stormwater facilities. This may require additional inlets and increased storm sewer pipe sizes.
- The parking lot layout does not currently conform to Burlington City Ordinance for aisle width or Stall size. The minimum required parking stall is 180 SF, with 65’ back to back aisle width. 20’ stall – 25’ Aisle – 20 Stall is standard. See Burlington Code 315-48.
- Move the water main from the front to around the back of the open retail building, hydrant leads can be run to the current proposed location.
- That a reciprocal easement agreement for ingress / egress be established for the subject property as an integral part of the City’s approval of the Certified Survey Map as shown on the proposed Certified Survey Map, and that it also be shown on the future Certified Survey Map.
- The entire shopping center site will have two ingress/egress points with Milwaukee Avenue, with the southern access point being designed as a controlled intersection, or signalized intersection. In the year 2010 the jurisdiction of Milwaukee Avenue will transfer from the DOT to the City. In the meantime the applicant must submit a modified version of a traffic impact analysis to the State in order to receive consideration of the traffic signal. If the warrants are not met according to the State standards, then the City could consider a conditional approval, indicating that traffic signals would be installed when the City takes over total jurisdiction of Milwaukee Avenue.
- The southern access point is generally shown to be approximately 40 foot wide. Section 315-49B of the City Zoning Ordinance, in the B-1 Zoning District, allows a maximum driveway width of 30 foot at street line and 35 feet at the roadway. The opening may be adjusted upon recommendation of the City Engineer and approved by the Plan Commission.
- Pertaining to the final review of the Landscaping Plan, the following shall be emphasized:
  - a. All of the canopy trees and low ornamental trees on the plan must be represented with symbols with the size that the trees will actually reach at maturity. These trees should be accurately represented with symbols that are of appropriate sizes.

- b. More appropriate plants and more functional plant spacing should be incorporated in all parking lot islands.
  - c. All proposed canopy trees are listed at a planting size of 2-1/2"-caliper. The City of Burlington requires canopy trees to be a minimum size of 3"-caliper.
  - d. Siberian Crabapple (MB) that is specified on Sheet LO.2 in each planting area in front of the building will grow too large for the space in which it is planted.
- Conformance with the minimum required Landscape Surface Ratio, that shall be calculated combining all phases of the overall site.
  - That the City Attorney coordinates with the applicant in regard to the preparation of a Planned Unit Development Overlay document in accordance with addressing the standards for the requirement for a PUD Overlay District as set forth in Section 315-43.
  - That detailed plans and reviews for all aspects of future phases of this proposed shopping center must be addressed at the time of submittal of those detailed plans.
  - The items that must be submitted can occur after PUD approval, but before issuance of a building permit.
  - The date of the proposed CSM shall be affixed on each sheet and the date of all sheets must be a consistent date.
  - The name and address of the owner must be indicated on the CSM.
  - If the Common Council approves the sale of neighboring City owned property to applicant, then the additional property must be added to the CSM.
  - A "no access easement" must be provided for along Milwaukee Avenue, except for the access point as shown on the Overall Site Plan.
  - Future land divisions of the same property as part of this proposed CSM must be accompanied by cross access easements, must identify the access point or points between Phases 3 and 4 to provide access to Phase 4, and must reserve a cross access easement to neighboring northern property.
  - Acknowledgement of the city and applicant that the design of Phases 2, 3 and 4, as so indicated on the Overall Site Plan, may change when exact retail uses are known, and detailed plans for Phases 2, 3 and 4 must be reviewed in accordance with all City ordinances in place at time of the detailed review, except for deviations granted as part of this approval process. City ordinance requirements that may apply, may include, but are not limited to:
    - Number of required parking spaces.
    - Number and size of handicapped parking spaces.

- Paving of off-street drives and parking.
  - Installation of concrete curb and gutters.
  - Required landscape material size requirements.
  - Minimum buffer yard requirements.
  - Location and design of loading docks, loading spaces, etc.
  - Outdoor storage.
  - Trash dumpsters.
  - Outdoor lighting.
- If the Common Council approves the sale of neighboring City-owned property to applicant, then alternative Overall Site Plan must be in place as a guide for future submittals of detailed plans.

All were in favor and the motion carried.

**2. Consideration to recommend approval of a Text Amendment request from Brian Barmore of Anytime Fitness to amend Chapter 315-26B, “B-1 Neighborhood Business District Permitted Uses” and Chapter 315-26D, “B-1 Neighborhood Business District Conditional Uses” of the Municipal Code of the City of Burlington to include “Fitness Centers” and “Tanning Salons”, subject to Bruce Kaniewski’s November 21, 2007 memorandum to the Plan Commission.**

Mayor Lois opened this issue for discussion.

Mr. Bruce Kaniewski, Ruekert & Mielke gave a brief explanation of the square footage difference for Permitted and Conditional Uses. Mr. Mark Lake, Redmond Company, voiced his concern with the “tanning salon” language being used to describe this business. He felt that this business should be strictly considered a 4000 square foot “Fitness Center”.

Building Inspector / Zoning Administrator Patrick Scherrer questioned what the definition was going to be for this section in the code to avoid any further conflict with tanning businesses in the future. Mr. Scherrer also stated that he would like to see the wording in the B-1 District for “tanning salons” to be consistent with the wording in the B-2 District.

Discussion ensued regarding whether to include the “tanning salon” language in code, as well as whether or not to restrict the size of the salons.

Commissioner Henney moved and Commissioner Lynch seconded to recommend approval of a Text Amendment request from Brian Barmore of Anytime Fitness to amend Chapter 315-26B, “B-1 Neighborhood Business District Permitted Uses” and Chapter 315-26D, “B-1 Neighborhood Business District Conditional Uses” of the Municipal Code of the City of Burlington to include “Fitness Centers” and “Tanning Salons”, subject to Bruce Kaniewski’s November 21, 2007 memorandum to the Plan Commission as follows:

- That the City amend its Zoning Ordinance to allow “Fitness Centers” and “Tanning Salons” as a permitted use in the B-1 District, at up to and

including 4,000 square feet of gross leasable area and as a Conditional Use if over 4000 square feet in area..

All were in favor and the motion carried.

3. **Consideration to recommend approval of a Text Amendment to amend Chapter 315-26, "*B-1 Neighborhood Business District*" and Chapter 315-130.1, "*Additional Standards and Requirements for Specific Conditional Uses*" of the Municipal Code of the City of Burlington to increase the threshold for requiring a Conditional Use Permit and additional development agreement provisions related to the enclosed structures from 60,000 square foot structures to 80,000 square foot structures.**

Mayor Lois opened this issue for discussion.

There were no comments.

Commissioner Thate moved and Commissioner Henney seconded to recommend approval of a Text Amendment to amend Chapter 315-26, "*B-1 Neighborhood Business District*" and Chapter 315-130.1, "*Additional Standards and Requirements for Specific Conditional Uses*" of the Municipal Code of the City of Burlington to increase the threshold for requiring a Conditional Use Permit and additional development agreement provisions related to the enclosed structures from 60,000 square foot structures to 80,000 square foot structures.

All were in favor and the motion carried.

#### **OTHER MATTERS**

None.

#### **ADJOURNMENT**

Commissioner Lynch moved and Commissioner Thate seconded to adjourn the meeting at 7:23 p.m. All were in favor and the motion carried.

Adjourned at 7:23 p.m.

Recording Secretary – Angela M. Hansen